IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION
NOTICE OF MOTION NO. 2290 OF 2003
IN
SUIT NO. 5296 OF 1998

State Bank of India & Ors. . ..Plaintiffs.

Versus
Nestle (India) Ltd., & Ors. ..Defendants.

Mr.Parag Shah i/by M.Dhruva & Co. for the plaintiffs.
Mr. R. Talasikar for Defendant No.1.
Ms. Manisha Poladia i/by M.Hiralal & Co. for the Defendant No.37.

CORAM : S. J. VAZIFDAR, J.
DATED : 18TH NOVEMBER,2005.

P.C.:

1. By this Notice of motion, the plaintiffs seek an order directing defendant No.1 to issue duplicate shares alongwith the benefit of approval in respect thereto.

2. Firstly, to grant such a relief would amount to decreeing the suit. Even if I am inclined to do so on the ground that no affidavit in reply has been filed by the concerned defendants, in the facts of this case, the plaintiff is not entitled to get such relief at this stage.

3. It appears that criminal proceedings are

pending against the plaintiffs. A substantial number of shares have been seized by the Dy. Commisioner of Police. To grant the relief would entitle the plaintiff to further deal with those shares. In the event of the plaintiff not succeeding at the final hearing of the suit for any reason, it would be virtually impossible to unscrambled the egg. Third party rights would also be created and vacating the same would also result in multiplicity of proceedings.

4. Notice of motion is therefore, dismissed.

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